

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MICHAEL GRASSMUECK, Trustee of the
Bankruptcy Estate of James Wenger,

Plaintiff,

CV-06-526-ST

OPINION AND ORDER

v.

JOHNSON CONTROLS BATTERY GROUP,
INC., a Wisconsin corporation, and JOHNSON
CONTROLS, INC., a Wisconsin corporation,

Defendants.

STEWART, Magistrate Judge:

Defendant asks the court to take judicial notice of several documents submitted in support of its Motion for Summary Judgment. These documents consist of copies of:

1. The Chapter 7 Voluntary Petition (case number 04-63040-fra7) filed by James Wenger on April 20, 2004, which includes schedules, statement of financial affairs and other supporting papers (Exhibit A);

2. The Docket for the U.S. Bankruptcy Court, District of Oregon (case number 04-63040-fra7) relating to the Chapter 7 Voluntary Petition filed by James Wenger (Exhibit B);

3. The Motion to Reopen the Chapter 7 proceeding filed on May 17, 2005 in the U.S. Bankruptcy Court, District of Oregon (case number 04-63040-fra7) (Exhibit C);

4. The Order Reopening Case; Trustee Reappointment filed on May 18, 2005 in the U.S. Bankruptcy Court, District of Oregon (case number 04-63040-fra7) (Exhibit D);

5. Oregon Bureau of Labor and Industries (“BOLI”) documents relating to the complaint filed by James Wenger on August 27, 2003 and the corresponding dismissal dated December 7, 2004 (Exhibit E);

6. The Complaint of James Wenger against Johnson Controls, Inc., filed on November 22, 2004 (Exhibit F); and

7. The Order dismissing the Complaint of James Wenger against Johnson Controls, Inc., on February 1, 2006 (Exhibit G).

Plaintiff first objects to the Exhibits A-D on the basis that the documents were not filed in a case that was pending with this Court. That objection is not well-taken. Under Federal Rule of Evidence 201, a court may take judicial notice of “matters of public record” as long as the facts are not “subject to reasonable dispute.” *See Lee v. City of Los Angeles*, 250 F3d 668, 689 (9th Cir 2001) (citations omitted). Court filings and orders are the type of documents that are properly noticed under Rule 201. Notice can be taken, however, “only for the limited purpose of recognizing the ‘judicial act’ that the order [or filing] represents on the subject matter of the litigation.” *United States v. Jones*, 29 F3d 1549, 1553 (11th Cir 1994) (citations omitted); *see also Gen. Elec. Capital Corp. v. Lease Resolution Corp.*, 128 F3d 1074, 1082, n 6 (7th Cir 1997)

(“We agree that courts generally cannot take notice of findings of fact from other proceedings for the truth [of the matter] asserted therein because these findings are disputable and usually are disputed”). Thus, this Court may take judicial notice of the undisputed fact that various documents were filed and action was taken on certain dates in James Wenger’s bankruptcy, but not of disputed findings of fact contained in those documents submitted for the truth of the matter asserted.

Plaintiff also objects to Exhibit E for the same reason. Exhibit E consists not of documents filed with another court, but of the Complaint filed by James Wenger with BOLI, the BOLI’s response to schedule an interview, and BOLI’s dismissal order. It is difficult to discern why plaintiff would reasonably dispute the accuracy of these documents sent to and from BOLI which contain receipt stamps by BOLI and give every indication of being from BOLI’s file. Therefore, this court will take judicial notice of these documents, but only to the extent of showing that a complaint was filed and certain acts were taken on certain dates and not as to the truth of any allegation made by James Wenger.

In addition, plaintiff objects to all of the documents on the basis that they are not relevant to the summary judgment motion, but without explaining why. Accordingly, whether any of the documents is relevant will be taken into account by the Court when considering the substance of the summary judgment motion.

///

///

///

///

ORDER

Defendant Johnson Control, Inc.'s Request for Judicial Notice in Support of Motion for Summary Judgment (docket # 21) is GRANTED.

DATED this 18th day of January, 2007.

/s/

Janice M. Stewart
United States Magistrate Judge